

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

ROBERT MECEA,

Plaintiff,

- against -

EBONY MEDIA HOLDINGS, LLC and CVG GROUP,
LLC

Defendants.

Docket No. 4:20-cv-3900

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Robert Mecea (“Mecea” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendants Ebony Media Holdings, LLC (“Ebony Media”) and CVG Group, LLC (“CVG Group” and together with Ebony Media “Defendants”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendants unauthorized reproduction and public display of a copyrighted photograph of Jasmine Campbell, owned and registered by Mecea, a professional photographer. Accordingly, Mecea seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendants because Defendants resides in and/or transacts business in Texas.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Mecea is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 583 17th Street Apt. 3, Brooklyn, NY 11218.

6. Upon information and belief, Ebony Media is a domestic limited liability company duly organized and existing under the laws of the State of Texas, with a place of business 1700 Post Oak Boulevard STE 600, Houston, TX 77056. Upon information and belief Ebony Media is registered with the Texas Department of State Division of Corporations to do business in the State of Texas. At all times material, hereto, Ebony Media has owned and operated a website at the URL: www.ebony.com (the “Website”).

7. Upon information and belief, CVG Group is a domestic limited liability company duly organized and existing under the laws of the State of Texas, with a place of business at 1700 Post Oak Boulevard STE 600, Houston, TX 77056. Upon information and belief Ebony Media is registered with the Texas Department of State Division of Corporations to do business in the State of Texas. At all times material, hereto, Ebony Media has owned and operated a website at the URL: www.ebony.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

8. Mecea photographed Jasmine Campbell (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

9. Mecea is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-098-266 and titled “Mecea_Jasmine Campbell, 1_4_18.jpg.” See Exhibit B.

B. Defendants Infringing Activities

11. On or about January 5, 2018, Defendants ran an article on the Website titled *Woman Sues NYPD Claiming Cop Arrested Her After Refusing to Expose Breasts*. See URL <https://www.ebony.com/news-views/woman-sues-nypd>. The article featured the Photograph. A true and correct copy of the article and a screenshot of the Photograph on the article are attached hereto as Exhibit C.

12. Defendants did not license the Photograph from Plaintiff for its article, nor did Defendants have Plaintiff’s permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANTS)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Defendants infringed Plaintiff’s copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Defendants are not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendants complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Defendants have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendants of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendants profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendants willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendants be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendants profits, gains or advantages of any kind attributable to Defendants infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendants be required to account for all profits, income, receipts, or other benefits derived by Defendants as a result of its unlawful conduct;

4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. §505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
November 16, 2020

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